IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
TUESDAY, THE TWENTY SECOND DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY
WRIT PETITION NO : 10174 of 2004

Between:

Mohammad Saleem, S/o Mohd. Ismail, working as Chairman
A.P. Wakf Board, Hyderabad.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, Rep. by its Principal Secretary,
Minorities Welfare (Wakf-1) Department, Secretariat,Hyderabad.
2 The Chief Executive Officer, A.P. State Wakf Board,
Mojamjahi Road, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction especially one in the nature of Writ of Mandamus declaring that Government Memo dated 16-6-2004 issued in No. 3497/Wakf.1/04 is one issued without power, jurisdiction and authority and further declare that neither C.E.O. nor any other person can act in pursuance of the same and further declare that a person appointed as Chair Person of Wakf Board is entitled to hold office for the term (5years) and will continue in the office for the term except when cessation is brought about either under Section 16, 19 or 20 of the Act

For the Petitioner:MR.M.SURENDER RAO, ADVOCATE

For the Respondent No.1: THE GOVERNMENT PLEADER FOR SOCIAL WELFARE

For the Respondent No.2: A.M.QURESHI, STANDING COUNSEL FOR THE WAKF BOARD

The Court made the following Order:

This writ petition is filed by the petitioner questioning the communication said to have been issued by the first respondent to the second respondent which is in the nature of a reply to the letter of the second respondent.

According to the learned Counsel for the petitioner, the petitioner was nominated as a Member of the Wakf Board and later he was elected from among the members as Chairman and as such he is functioning as Chairman of the Wakf Board. It is also stated that it appears that certain members have issued a requisition to the Chief Executive Officer-second respondent proposing to move no confidence motion against the petitioner. Basing on the said requisition, the second respondent addressed a letter to the first respondent and the first respondent gave a reply in Memo No.3497/Wakf.1/04 dated 16.06.2004 under which the first respondent gave certain clarification to the second respondent. Questioning the said communication, the present writ petition is filed.

According to the learned Counsel for the petitioner, there is no provision under the Wakf Act for moving any no confidence motion against the Chair Person of the Wakf Board. Similarly, the first respondent Government has no power to give any directions to the second respondent to move no confidence motion as desired by certain members of the Wakf Board. Therefore, the learned Counsel sought for quashing of the communication of the first respondent to the second respondent dated 16.06.2004. This is opposed by the learned Government Pleader stating that it is only an internal communication between the first and second respondents and the same does not give rise to any cause of action. If any notice of no confidence motion is issued by the second respondent, it is always open to the petitioner to

take appropriate steps including assailing the jurisdiction and power of the second respondent, if the petitioner so chooses. Therefore, according to the learned Government Pleader, the present writ petition is pre-mature and does not survive as there is no cause of action for the present writ petition.

Heard the learned Counsel for the petitioner and the learned Government Pleader as well as the learned Standing Counsel for the Wakf Board.

As rightly stated by the Government Pleader, the impugned letter is only the communication between the first respondent and the second respondent and the same does not give any cause of action to the petitioner. If ultimately, the second respondent chooses to issue no confidence motion notice, it is always open to the petitioner to take appropriate steps including assailing the said notice on the grounds that are available to the petitioner in law and therefore the writ petition has no cause of action.

The writ petition is accordingly dismissed as pre-mature. No costs.

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ANANDA REDDY,J

22.06.2004
bsv

(one fair copy to the Hon'ble Sri Justice S.Ananda Reddy for his Lordship's kind perusal).

To
1. The Principal Secretary to Government,
   Government of Andhra Pradesh,

Minorities Welfare (Wakf-I) Department
Secretariat, Hyderabad

2. The Chief Executive Officer
A.P.State Wakf Board
Mojamjahi Road, Hyderabad

3. 2 CCs to the Government Pleader for Social Welfare (on usual terms)
High Court Bldgs., High Court of A.P., Hyderabad

4. 2CD copies